

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

NATURAL RESOURCES DEFENSE
COUNCIL, et al.,

Plaintiffs,

v.

KIRK C. RODGERS, etc., et al.,

Defendants.

NO. CIV. S-88-1658 LKK

O R D E R

Following oral argument on issues relating to the Endangered Species Act on April 13, 2005, a Status Conference was held in the above-captioned case. At that conference, the parties discussed with the court dates and deadlines relating to the remaining causes of action and remedies. As a result of that discussion, the court hereby makes the following ORDERS:

1. All previously-set dates are VACATED.
2. All parties are directed to file discovery statements which comply with Fed. R. Civ. P. 26(f) by April 22, 2005 at 4:00 p.m. A Rule 26(f) Conference is SCHEDULED for April 28,

1 2005 at 10:00 a.m. in Courtroom No. 4.

2 3. All parties are ordered to re-file a consolidated
3 brief relating to liability under NEPA, the remaining
4 Reclamation Act claim, and for remedies not relating to the
5 first cause of action by May 9, 2005 at 4:00 p.m.¹ A hearing
6 relating to those issues is SET for July 27, 2005 at 10:00 a.m.²

7 4. At the time of electronic filing, all parties shall
8 provide courtesy paper copies of the consolidated brief
9 (representing either their motions for summary
10 judgment/adjudication or opposition), Statements of Undisputed
11 Facts (SUFs) or Response SUFs, to be delivered directly to the
12 chambers of the undersigned.

13 5. Plaintiffs and Friant defendants are ordered to
14 reorganize their SUFs to represent the NEPA claim, remaining
15 Reclamation Act claim, and remedies pertaining to these claims
16 and the ESA claims, and are directed to circulate their SUFs
17 with the other parties within five days of this order so that
18 they may file Response SUFs which respond numerically to these
19 SUFs.³

20
21 ¹ The parties are admonished that no new arguments will be
22 entertained. Any attempt to add additional arguments in their
consolidated briefs may be grounds for the imposition of sanctions.

23 ² At the hearing, the court directed the parties to file
24 their brief by April 27, 2005 and the administrative record by May
25 9, 2005. The court also scheduled the hearing for May 26, 2005.
Those dates, as well as the date for Pretrial Conference, have been
modified, as set forth in this order.

26 ³ In the last round of briefing, the parties opposing the
cross-motions for summary judgment/adjudication were forced to

1 6. At the time of filing the consolidated briefs and
2 related SUFs and Response SUFs, all counsel are ordered to e-
3 mail a copy (in Word or WordPerfect format) to the Judge's
4 assistant, Tim Hinkle, at thinkle@caed.uscourts.gov.

5 7. All parties are ordered to provide courtesy paper
6 copies of the excerpts of the administrative record cited to in
7 the SUFs and Response SUFs, to be delivered directly to chambers
8 by May 9, 2005 at 4:00 p.m. In order to avoid confusion and to
9 assist the court with adjudication of this case, the parties are
10 ordered to contact the chambers of the undersigned before
11 organizing the excerpts of the administrative record.

12 8. A Pretrial Conference is SCHEDULED for January 19, 2006
13 at 10:00 a.m. and a trial is SCHEDULED for February 14, 2006 at
14 10:30 a.m. in the above-captioned case.

15 IT IS SO ORDERED.

16 DATED: April 18, 2005.

17 /s/Lawrence K. Karlton
18 LAWRENCE K. KARLTON
19 SENIOR JUDGE
20 UNITED STATES DISTRICT COURT

21 _____
22 speculate as to which facts were material, which resulted in SUFs
23 and Response SUFs which did not respond numerically. The court
24 also notes that it will consider only plaintiffs' and Friant
25 defendants' motions for summary judgment/adjudication for the last
26 two rounds of briefing. Although intervenors filed a motion for
summary judgment/adjudication, their motion related only to the
third, portions of the seventh, and the eight causes of action,
which were dismissed with prejudice the court's January 20, 2005
hearing. To clarify, intervenors may file an opposition in this
round of briefing, not a motion for summary adjudication.